

private statute. A statute incorporating a bank is a private statute, for their bills are held by our courts to be a legal tender unless specially objected to, their charters concern the currency of the country, and their operations affect the whole community, and more especially, are acts incorporating banks to be regarded as public, when the State becomes interested in the stock, and derives a revenue from them by the way of a tax. By parity of reasoning, acts incorporating Rail Road companies, from which the State derives a revenue, must be regarded as public acts, and are necessarily so, when they subject offenders to punishment, by indictment and fine, who are found guilty of destroying, injuring, or obstructing the roads. In England the limits of the several parishes and counties, are not ascertained by public acts of parliament, the records of which are remaining; but they are determined by ancient usage of which the Judges cannot judicially take notice; in this country it is very different; our county limits and the boundaries of our towns are prescribed by public statutes, of which the judges are bound judicially to take notice. A further distinction obtains, which it may be important to notice; a private act of the Legislature, incorporating certain persons, for purposes of private emolument, or advantage, will not bind those persons named in the act, who have not consented thereto, and will not bind strangers though it contains no saving of their rights—if however the act were public or general it would bind all citizens. Public statutes are not the subject of proof in any court of justice, for being the law of the land, they are supposed to be known by every man, and the printed statute book, is referred to, not as evidence, to prove that of which every man is presumed to be conversant, but for the purpose of refreshing the memory of those, who are to decide upon them; but private acts, not concerning the public, are not considered as *laws*, but *facts*, and therefore must be proved like other records, which concern private rights, by certified copies from the Secretary of the State. In confirmation of the truth of this distinction, it will be found by reference to our act of 1826, c 6, that our Legislature declared that all private acts which have been or may hereafter be passed by the General Assembly, and printed by the printer of the State, shall and may be read in evidence, in all cases, and in all courts of this State, from the printed statute book; and also that any of the private acts heretofore passed, and published by Francis X. Martin, in his collection of private acts, shall and may be read in evidence, from said collection. Previous to the passage of this act, if any person asserted a right under a private act, before any judicial tribunal in this State, as the court was not bound judicially to notice it, he was compelled to give evidence of the existence of such private act, by means of a certified copy of the same from the Secretary of State.

It will readily be perceived, that the classification of the Statutes passed by each General Assembly, into public and private acts, as exhibited in our pamphlet laws, as they are termed, has been exceedingly arbitrary and illegal; and that many of those laws which have been arranged under the head of private acts, are, according to legal construction, public Statutes. Your committee will hazard the opinion, that in amending the Constitution upon this subject, it never was contemplated to confine the Legislature to the true legal distinction between public and private acts. The